IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE ELEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 83 of 2005

Between:

Nunna Venkata Rao S/o Balakrishnaiah
R/o Christianpet, 1st Line, Kavali, Nellore district

..... PETITIONER

AND

1 The Revenue Divisional Officer, Kavali Nellore District.
2 The Mandal Revenue Officer, Kavali Mandal, Kavali, Nellore District.
3 The Commissioner, Kavali Municipality, Kavali, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondent Nos. 1 and 2 herein in attempting to demolish the structures raised in the land situated in Sy. No. 1078/2, Kavali Town within Kavali Municipality, Nellore District, during the subsistence of injunction Orders granted in I.A. No. 2064/2004 in O.S. No. 585/2004 dt 31-12-2004 on the file of the Principal Junior Civil Judge, Kavali, Nellore District, as illegal, arbitrary, unconstitutional and without jurisdiction and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.V.R.MACHAVARAM

Counsel for the Respondents: GP FOR GENERAL ADMINISTRATION

The Court at the stage of admission made the following ORDER:

Petitioner, who claims to be the owner and possessor of land in an extent of 12,000 Ankanams situated in Sy.No.1078/2 of Kavali town, Nellore District, filed O.S.585 of 2004 in the Court of Principal Junior Civil Judge, Kavali for perpetual injunction. Through an order dated 31.12.2004 in I.A.No.2064 of 2004, the learned Junior Civil Judge restrained the third respondent from demolishing the constructions in the petition schedule property. The petitioner challenges the action of respondents 1 and 2 in attempting to demolish the structures in question, during subsistence of the interim orders.

Heard learned counsel for the petitioner and learned Government pleader for General Administration.

The main grievance of the petitioner is that though he obtained interim orders restraining the third respondent from demolishing the structures in question, respondents 1 and 2, with the active support of the third respondent, are threatening to demolish the structures.

On a perusal of the record, it is clear that the petitioner had already invoked the jurisdiction of the civil Court and obtained an order of injunction against the third respondent not to demolish the structures in question. In view of the same, if respondents 1 and 2 are interfering with the construction of the petitioner, the proper remedy available to him is to approach the civil Court with an application to implead them as parties to the suit and proceed against them in accordance with law.

Hence, the writ petition is disposed of. The petitioner is at liberty to approach the Court below and file a petition to implead respondents 1 and 2 as parties to the suit and proceed against them in accordance with law.

_____

11-01-2005

kdl/ksld

To

1 The Revenue Divisional Officer, Kavali Nellore District.
2 The Mandal Revenue Officer, Kavali Mandal, Kavali, Nellore District.
3 The Commissioner, Kavali Municipality, Kavali, Nellore District.

4 Two C.Cs. to the Government Pleader for General Administration, High Court Buildings, A.P., Hyderabad, (OUT).

5 Two C.D.Copies.